

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

JOEL GREEN, *By Next Friend*
KENNETH GREEN,

Petitioner,
v. Case No. 20-cv-1699-bhl

STATE OF WISCONSIN,

Respondent.

**ORDER ADOPTING REPORT AND RECOMMENDATION
AND DISMISSING PETITION**

Kenneth Green, as *next friend* of Joel Green, filed a petition for writ of habeas corpus. On December 21, 2020, Magistrate Judge Stephen C. Dries screened his petition and filed a Report and Recommendation, recommending that the petition be dismissed. Under 28 U.S.C. §636(b)(1), the petitioner had until January 4, 2021 to file and serve written objections to the Magistrate Judge's Report and Recommendation. The statute further provides that this court must "make a de novo determination of those portions of the report or specified proposed findings or recommendations *to which objection is made.*" *Id.* (emphasis added). The petitioner did not file an objection to any portion of the recommendation, either before or after the statutory deadline.

On January 11, 2021, a person who identified himself as William Henshall filed a letter expressing his dissatisfaction with the Magistrate Judge's Report and Recommendation. (ECF No. 7.) This letter provides no basis for challenging the Report and Recommendation. At the most basic level, the letter includes no evidence that the petitioner authorized Henshall to file the document. In fact, the filing does not explain Henshall's relationship to the petitioner, if there is one, at all. Accordingly, and in any event, because Henshall is not a party to this case, his correspondence is not an objection to the Report and Recommendation filed pursuant to 28 U.S.C.

§636(b)(1); *cf. Marino v. Ortiz*, 484 U.S. 301, 304 (1988) (holding “only parties to a lawsuit, or those that properly become parties, may appeal an adverse judgment”). And, even if the correspondence had been filed by the petitioner, it provides no meritorious legal argument. Most charitably, it includes an ill-founded complaint that the petitioner has not consented to having the Magistrate Judge decide the petition. This complaint is ill-founded because the Magistrate Judge has not purported to resolve the petition on consent; he has made a report and recommendation to the District Court, as section 636(b)(1) allows.

After careful consideration of the Report and Recommendation as well as the record as a whole, the court adopts the Report and Recommendation of the Magistrate Judge and ORDERS the petition (ECF No. 1) DISMISSED. A Certificate of Appealability is denied for the reasons recommended. The Clerk is directed to enter judgment forthwith.

Dated at Milwaukee, Wisconsin this 15th day of January, 2021.

BY THE COURT:

s/ Brett H. Ludwig
BRETT H. LUDWIG
United States District Judge